IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No. 1250 of 2006

State of Maharashtra. .Applicant

vs

Mangesh Changya Bhagat & Ors. .. Respondents

Ms. P.H. Kantharia, A.P.P. for the applicant.

CORAM: V.G.PALSHIKAR,Acg C.J. ,&
NISHITA MHATRE, J.
DATE: AUGUST 17, 2006.

P.C.:

This application is for leave to appeal against the judgment and order dated 9th December, 2005 passed by the First Adhoc Additional Sessions Judge, Raigad in Sessions Case No.81 of 2005.

The accused persons were charged under section 420 of I.P.C. and one of them was charged under section 376 of I.P.C. The prosecution case, briefly, is that the accused and prosecutrix were engaged to be married and, therefore, indulged in voluntary sexual action and consequently there was demand for dowry, which was not paid, and therefore, the engagement was broken.

It is obvious that because of the circumstances then existing, intercourse was with consent. The demand for dowry came thereafter and factually no property was parted with and,

therefore, section 420 of IPC cannot be invoked. The learned trial Judge has properly considered and appreciated the evidence on record and passed the order of acquittal against the accused. The impugned order cannot be called in any manner perverse or unsustainable in law. Hence leave rejected.

Application is accordingly disposed of.